

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

United States of America,

–v–

Ralph Berry,

Defendant.

20-cr-84 (AJN)

ORDER

ALISON J. NATHAN, Circuit Judge, sitting by designation:

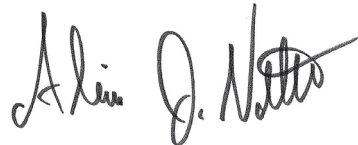
On January 30, 2020, the Government filed an Indictment charging Defendant Ralph Berry with Count One, murder through use of a firearm, in violation of 18 U.S.C. § 924(j)(1); and Count Two, killing while engaged in a narcotics conspiracy, in violation of 21 U.S.C. § 848(e)(1)(A). Dkt. No. 2. On August 19, 2021, the Government filed an S-2 Superseding Indictment charging Berry with the same Count One and Count Two, as well as Count Three, murder in aid of racketeering, in violation of 18 U.S.C. § 1959(a)(1). Dkt. No. 94. Following a jury trial, Berry was found guilty on Counts One, Two, and Three of the S-2 Superseding Indictment. His conviction on Count One was set aside following the Court's grant, in part, of Berry's Rule 29 motion. Dkt. No. 163.

On December 12, 2022, the Court sentenced Berry on Counts Two and Three. When asked by the Court at sentencing whether there were any remaining counts or underlying indictments that needed to be dismissed at that time, the Government indicated there were not. Notwithstanding that response, the Court presumes that Counts One and Two in the underlying indictment can and should be dismissed at this time. Accordingly, the Court deems the Government to have moved to dismiss the counts against Berry in the underlying indictment.

Any objection to the dismissal of the underlying counts shall be filed no later than December 20, 2022.

SO ORDERED.

Dated: December 15, 2022
New York, New York

A handwritten signature in black ink, appearing to read "Alison J. Nathan", with a stylized flourish at the end.

ALISON J. NATHAN
United States Circuit Judge,
sitting by designation